

AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 1018

Introduced by Senator Aanestad
(Principal coauthor: Senator Wiggins)

February 23, 2007

~~An act to add Section 14075.5 to the Corporations Code, and to add and repeal Section 6368.2 of the Revenue and Taxation Code, relating~~
An act to amend Section 14037.5 of, and to add and repeal Section 14030.5 of, the Corporations Code, relating to salmon fishing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1018, as amended, Aanestad. Salmon fishing: economic aid.

(1) The California Small Business Financial Development Corporation Law establishes within the Business, Transportation and Housing Agency the California Small Business Loan Guarantee Program, whereby financial development corporations, as provided, loan money to, or guarantee loans for, small businesses.

Existing law specifically authorizes a financial development corporation, in an area declared to be in a state of emergency by the Governor, to provide specified loan guarantees to small businesses, small farms, nurseries, and agriculture-related enterprises that have suffered actual physical damage or significant economic injury as a result of the disaster. Existing law establishes the California Small Business Expansion Fund and continuously appropriates the moneys in the fund for prescribed loans, loan guarantees, and related purposes.

~~The bill would authorize a financial development corporation, in an area declared to be in a state of emergency by the Governor, to provide~~

~~loan guarantees to businesses directly related to the salmon fishing industry that have experienced economic losses as a result of the 2006 National Marine Fisheries Service restrictions on, and closures of, state salmon fisheries, thereby making an appropriation by expanding the purposes for which the expansion fund, a continuously appropriated fund, may be used.~~

~~(2) The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property, and provides various exemptions from the taxes imposed by that law.~~

~~This bill would, from January 1, 2005, to January 1, 2008, inclusive, exempt from the tax imposed under that law the gross receipts derived from the sale in this state of, and the storage, use, or other consumption in this state of, watercraft and related components, as specified.~~

~~(3) Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are automatically incorporated into the local taxes.~~

~~Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.~~

~~This bill would provide that no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.~~

This bill, until January 1, 2012, would establish a revolving loan program to allow an eligible business, as defined, to submit an application to a corporation administering the program under contract with the agency to finance all or a portion of the costs of economic losses experienced by the eligible business. The bill would require the agency to enter into a sole-source contract with one or more specified corporations to administer the program. The bill would establish the Salmon Fishing Aid Revolving Loan Program Account in the California Small Business Expansion Fund for the purposes of the revolving loan program. The bill would continuously appropriate moneys in the account to the agency for payments to an administering corporation that acts as trustee of those moneys for program purposes. The bill would require the agency to adopt regulations for the administration of the program.

(2) The bill would appropriate from the General Fund an unspecified amount of money for programs to mitigate the economic losses resulting from restrictions on, and closures of, salmon fisheries in the state, to

be used as matching funds for related federal appropriations, to be available as scheduled.

~~(4)~~

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 14030.5 is added to the Corporations*
2 *Code, to read:*

3 *14030.5. (a) As used in this section, the following terms have*
4 *the following meanings:*

5 *(1) "Account" means the Salmon Fishing Aid Revolving Loan*
6 *Program Account established by subdivision (b).*

7 *(2) "Eligible business" means a commercial fisherman or*
8 *commercial passenger vessel operator operating recreational*
9 *charter services, or a business directly related to the salmon fishing*
10 *industry, directly affected by the 2006 National Marine Fisheries*
11 *Service restrictions on, and closures of, salmon fisheries.*

12 *(3) "Loan" means a loan of funds by a corporation pursuant*
13 *to this section.*

14 *(b) (1) The Salmon Fishing Aid Revolving Loan Program*
15 *Account is hereby created in the expansion fund.*

16 *(2) The moneys in the account shall consist of all moneys*
17 *authorized or required to be deposited in the account by the*
18 *Legislature.*

19 *(3) Notwithstanding Section 13340 of the Government Code,*
20 *the moneys in the account are hereby continuously appropriated*
21 *to the agency for payments, with the approval of the Department*
22 *of Finance, to an administering corporation under contract*
23 *pursuant to subdivision (c) that will act as trustee of those moneys*
24 *for the purposes of this section.*

25 *(c) The agency shall contract with one or more corporations*
26 *that are located within an area declared to be in a state of*
27 *emergency to administer a revolving loan program in accordance*
28 *with this section. Contracts with corporations to administer this*
29 *section shall be sole source contracts.*

1 (d) An eligible business may submit an application to a
2 corporation for a loan, at an interest rate and terms established
3 by the agency, for the purpose of financing all or a portion of the
4 costs of economic losses experienced by an eligible business. The
5 application shall be in a form and contain information as
6 prescribed by the agency.

7 (e) A loan made pursuant to this section shall be used for the
8 purposes specified in the approved application.

9 (f) If the corporation determines that a loan has been expended
10 for purposes other than those specified in the approved application,
11 it shall immediately request the return of the full amount of the
12 loan. The eligible business shall immediately comply with that
13 request. If the business fails to comply with the request, the
14 corporation shall begin foreclosure on the collateral used to secure
15 the loan.

16 (g) To execute the revolving loan program established by this
17 section, the agency shall loan funds from the Salmon Fishing Aid
18 Revolving Loan Program Account to corporations on contract
19 with the agency to administer this section that have approved loans
20 to eligible businesses. The amount of the loan shall not exceed the
21 amount of the loan approved by the corporation for the eligible
22 business, and will be based on terms established by the agency.

23 (h) The loan between the agency and a corporation shall be
24 evidenced by a credit agreement. The agency shall consult with
25 the Department of General Services in the development of the
26 terms and conditions of the credit agreement. All credit agreements
27 under this section between the agency and corporations shall be
28 exempt from Department of General Services approval.

29 (i) The agency may adopt regulations for the administration of
30 this section. The agency, in the administration of this section, shall
31 be exempt from the rulemaking provisions of the Administrative
32 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
33 Part 1 of Division 3 of Title 2 of the Government Code).

34 (j) This section shall remain in effect until January 1, 2012, and
35 as of that date is repealed, unless a later enacted statute, which is
36 enacted before January 1, 2012, deletes or extends that date.

37 (k) The repeal of this section does not terminate any of the
38 following rights, obligations, or authorities, or any provision
39 necessary to carry out these rights, obligations, and authorities:

1 (1) *The repayment of loans, outstanding as of January 1, 2012,*
2 *due and payable from an eligible business to a corporation.*

3 (2) *The repayment of loans, outstanding as of January 1, 2012,*
4 *due and payable from a corporation to the agency.*

5 (3) *The resolution of any cost recovery action.*

6 SEC. 2. *Section 14037.5 of the Corporations Code is amended*
7 *to read:*

8 14037.5. The Director of Finance, with the approval of the
9 Governor, may transfer moneys in the Special Fund for Economic
10 Uncertainties to the Small Business Expansion Fund for use as
11 authorized by the director, in an amount necessary to make loan
12 guarantees pursuant to ~~Chapter 1 (commencing with Section 14000)~~
13 ~~of Part 5 of Division 3 of Title 1 of the Corporations Code this~~
14 ~~chapter, or to make direct loans pursuant to Section 14030.5.~~

15 SEC. 3. *The sum of _____ is hereby appropriated from the*
16 *General Fund, for programs to mitigate the economic losses*
17 *resulting from the 2006 National Marine Fisheries Service*
18 *restrictions on, and closures of, salmon fisheries in this state, to*
19 *be used as matching funds for related federal appropriations, and*
20 *shall be available as follows:*

21 (a) _____ *to the Department of Fish and Game for the*
22 *development of a direct grant program or the development of a*
23 *program that utilizes commercial salmon fishermen to assist in*
24 *the collection of fisheries data.*

25 (b) _____ *to the Department of Fish and Game for grants to*
26 *support tribal and river community impacts that benefit fisheries.*

27 (c) _____ *to the Small Business Expansion Fund for the*
28 *implementation of Section 14030.5 of the Corporations Code.*

29 SECTION 1. ~~Section 14075.5 is added to the Corporations~~
30 ~~Code, to read:~~

31 ~~14075.5. (a) A corporation, in an area declared to be in a state~~
32 ~~of emergency by the Governor, may provide loan guarantees to~~
33 ~~businesses directly related to the salmon fishing industry that have~~
34 ~~experienced economic losses as a result of the 2006 National~~
35 ~~Marine Fisheries Service restrictions on, and closures of, salmon~~
36 ~~fisheries in this state.~~

37 ~~(b) The agency may adopt regulations to implement the loan~~
38 ~~guarantee program authorized by this section. The agency, in the~~
39 ~~administration of this section, is exempt from the rulemaking~~
40 ~~provisions of the Administrative Procedure Act (Chapter 3.5~~

1 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
2 ~~2 of the Government Code).~~

3 ~~SEC. 2. Section 6368.2 is added to the Revenue and Taxation~~
4 ~~Code, to read:~~

5 ~~6368.2. (a) Except as otherwise provided in Section 6368, for~~
6 ~~the period on or after January 1, 2005, and before January 1, 2008,~~
7 ~~there are exempted from the taxes imposed by this part the gross~~
8 ~~receipts from the sale of and the storage, use, or other consumption~~
9 ~~in this state of watercraft and any tangible personal property~~
10 ~~becoming a component part of that watercraft in the course of~~
11 ~~constructing, repairing, cleaning, altering, or improving that~~
12 ~~watercraft, and charges made for labor and services rendered in~~
13 ~~respect to that constructing, repairing, cleaning, altering, or~~
14 ~~improving, if all of the following conditions are met:~~

15 ~~(1) The watercraft is for use in commercial ocean fishing~~
16 ~~operations by persons who are regularly engaged in commercial~~
17 ~~ocean fishing.~~

18 ~~(2) The purchaser of the watercraft has a valid commercial~~
19 ~~salmon vessel permit for the use of that watercraft issued by the~~
20 ~~Department of Fish and Game pursuant to Article 4.5 (commencing~~
21 ~~with Section 8230) of Chapter 2 of Part 3 of Division 6 of the Fish~~
22 ~~and Game Code.~~

23 ~~(b) For purposes of this section, it shall be rebuttably presumed~~
24 ~~that a person is not regularly engaged in the business of commercial~~
25 ~~ocean fishing if the person has gross receipts from commercial~~
26 ~~fishing operations of less than twenty thousand dollars (\$20,000)~~
27 ~~a year.~~

28 ~~(c) This section shall remain in effect only until January 1, 2008,~~
29 ~~and as of that date is repealed. For any watercraft for use in~~
30 ~~commercial ocean fishing that is purchased on or after January 1,~~
31 ~~2005, and before January 1, 2008, this section shall apply~~
32 ~~regardless of whether the end of the year described in subdivision~~
33 ~~(b) that immediately follows the first operational use of the~~
34 ~~watercraft occurs after the repeal date of this section. For any~~
35 ~~watercraft that is purchased before January 1, 2005, this section~~
36 ~~shall not apply, regardless of whether the first operational use of~~
37 ~~the watercraft occurs after the operative date of this section.~~

38 ~~(d) The Legislature finds and declares that this section serves~~
39 ~~a public purpose of the state by mitigating the economic losses of~~
40 ~~the commercial salmon fishing industry.~~

1 ~~SEC. 3.— Notwithstanding Section 2230 of the Revenue and~~
2 ~~Taxation Code, no appropriation is made by this act and the state~~
3 ~~shall not reimburse any local agency for any sales and use tax~~
4 ~~revenues lost by it under this act.~~

5 SEC. 4. This act is an urgency statute necessary for the
6 immediate preservation of the public peace, health, or safety within
7 the meaning of Article IV of the Constitution and shall go into
8 immediate effect. The facts constituting the necessity are:

9 In order to mitigate the severe economic losses resulting from
10 the 2006 National Marine Fisheries Service restrictions on, and
11 closures of, salmon fisheries in the state, it is necessary for this
12 measure to take effect immediately.